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*Attorneys for Defendant Daimler Truck North America  
LLC*

UNITED STATES DISTRICT COURT  
  
DISTRICT OF OREGON  
  
PORTLAND DIVISION

**WILLIAM WAKEFIELD,**

Plaintiff,

vs.

**DAIMLER TRUCK NORTH AMERICA  
LLC**, a Delaware corporation,

Defendant.

**Case No. 3:22-cv-01189**

**DEFENDANT DAIMLER TRUCK  
NORTH AMERICA LLC'S NOTICE  
OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and  
1446

(Multnomah County Circuit Court Case  
No. 22CV22298)

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Daimler Truck North America LLC ("DTNA"), hereby files this Notice of Removal of civil action, removing the above-captioned action, Case No. 22CV22298 from the Circuit Court of the State of Oregon, for the County of Multnomah, in which it is pending, to the United States District Court for the District of Oregon, Portland Division.

## **I. INTRODUCTION**

1. On or about July 6, 2022, Plaintiff William Wakefield commenced this products liability action by filing a complaint in the Circuit Court of the State of Oregon for the County of Multnomah, styled *William Wakefield v. Daimler North America LLC*, at Case No. 22CV22298, which is currently pending. A true and accurate copy of the complaint (and all other filings from the state court action) is attached as Exhibit 1.

2. In their complaint, Plaintiff claims that he was injured while stepping out of a Freightliner Cascadia. *Complaint*, ¶¶ 1-2. Plaintiff alleges that he was “a delivery person driving a Freightliner Cascadia for his job.” *Id.* at ¶ 2. According to the complaint, while plaintiff was “getting out of his vehicle, he slipped in a step that was unexpectedly covered by a flap of metal that was designed to be held up above the step by magnets.” *Id.* Plaintiff has pled causes of action for negligence and products liability. Plaintiff seeks \$1,500,000 in noneconomic damages, and \$59,000 in economic damages

## **II. THIS CASE IS REMOVABLE UNDER DIVERSITY JURISDICTION**

3. Pursuant to 28 U.S.C. §§ 1332(a) and 1441(a) and (b), a defendant may remove a case from state court to federal court based on diversity jurisdiction when the parties are citizens of different states, none of the defendants are a citizen of the state in which the action was brought, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

4. For the reasons detailed herein, this case is removable on the basis of diversity jurisdiction.

5. DTNA was at the time this action was commenced, and still is, a citizen of Germany and not a citizen of Oregon.

(a) The citizenship of a limited liability company is determined by the citizenship of each of its members. *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894,

899 (9th Cir. 2006). Pursuant to 28 U.S.C. § 1332, a corporation is deemed to be a citizen of every state in which it has been incorporated, and of the state where it has its principal place of business.

(b) Defendant Daimler Truck North America LLC is a limited liability company organized under the laws of Delaware whose sole member is Daimler Truck & Buses US Holding LLC. The member of Daimler Truck & Buses US Holding LLC is Daimler Truck AG, which is a publicly traded Frankfurt, German company, incorporated in the Federal Republic of Germany, with its principal place of business in Germany. Accordingly, Daimler Truck & Buses US Holding LLC is a citizen of Germany, making DTNA also a citizen of Germany for purposes of diversity jurisdiction.

6. Upon information and belief, based in part on information obtained from plaintiff's counsel, plaintiff was at the time this action was commenced, and still is, a citizen and resident of Oregon.

7. This is a civil action wherein the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs, as plead in Plaintiff's complaint (*see* Exhibit 1, reflecting Plaintiff's prayer for a judgment in the amount of \$1,559,000.00).

8. Therefore, under 28 U.S.C. § 1332(a), this case is one that may be removed to this Court by a defendant, pursuant to 28 U.S.C. § 1441, because it is a civil action between citizens of different states with one of the parties a citizen of a foreign state, DTNA is not a citizen of Oregon and the amount in controversy exceeds \$75,000.

### **III. SERVICE OF COMPLAINT**

9. According to the Affidavit of Service, Plaintiff obtained service on DTNA on July 15, 2022. See Exhibit 1, p. 5.

10. This Notice of Removal is being filed within thirty (30) days of service of the complaint in the State Court Action, and removal is therefore timely. *See* 28 U.S.C. § 1446(b) (providing that a notice of removal must be filed within 30 days after defendant receives, by service or otherwise, the initial pleading); *Cty. of Multnomah v. Pharma*, No. 3:17-cv-02010-JE, 2018 US Dist LEXIS 235859, at \*11 (D Or Feb. 14, 2018), *citing* *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-48, 119 S. Ct. 1322, 1325, 143 L. Ed. 2d 448 (1999) (finding that the thirty-day period for removal is triggered by either the simultaneous service of the summons and complaint or the receipt of the complaint at some point after service of the summons).

#### **IV. VENUE OF REMOVED ACTION**

11. This action may be removed to this Court pursuant to 28 U.S.C. § 1441(a) because this case was initially brought in a state court within the geographical area of the United States District Court for the District of Oregon, Portland Division, and because this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a).

#### **V. CONSENT, NOTICE TO OTHER PARTIES, AND NOTICE TO STATE COURT**

12. No other parties have been named as defendants in this action, so therefore all defendants consent to removal.

13. Written notice of the filing of this Notice of Removal is given to all adverse parties in accordance with 28 U.S.C. § 1446(d), and is noted in the Certificate of Service attached hereto.

14. A true and correct copy of all process, pleadings, orders and documents from the state court action that were served on DTNA or available from the state court action are being filed with and attached to this Notice of Removal, and written notice of the filing of this

Notice of Removal will be provided promptly to counsel for the Plaintiff and to the Circuit Court of the State of Oregon For the County of Multnomah.

**VI. PLEADINGS IN THE STATE COURT ACTION**

15. DTNA has not filed any responsive pleadings in the state court action, and no other pleadings have been filed.

16. By this Notice of Removal, DTNA does not waive any objections they may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action, and intend no admission of fact, law or liability by this Notice and expressly reserve all defenses, motions and/or pleas.

WHEREFORE, DTNA hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, and requests that this Court proceed to hear and determine the matters in this controversy.

DATED this 12<sup>th</sup> day of August, 2022.

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*Attorneys for Defendant Daimler Truck North America LLC*

**CERTIFICATE OF SERVICE**

I certify that I served the foregoing **DEFENDANT DAIMLER TRUCK NORTH AMERICA LLC'S NOTICE OF REMOVAL** on the following attorneys by the method indicated below on the 12<sup>th</sup> day of August, 2022:

***Attorneys for Plaintiff:***

Mark McDougal  
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<u>✓</u>	Via First Class Mail
<u>      </u>	Via Federal Express
<u>✓</u>	Via CM/ECF
<u>✓</u>	Via E-Mail

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